

This letter describes some of the items that qualify for the Farm Machinery & Equipment Exemption . See Ill. Adm. Code 130.305. (This is a GIL).

September 1, 1999

Dear Ms. Xxxxx:

This letter is in response to your letter dated June 21, 1999. The nature of your letter and the information you have provided require that we respond with a General Information Letter, which is designed to provide general information, is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120(b) and (c), enclosed.

In your letter, you have stated and made inquiry as follows:

Would you please submit in writing the statue concerning the taxation of the following items. We are specifically trying to identify if these items are exempt from sales tax in the state of Illinois.

Bull Semen
Cattle Insemination
AI Supplies
AI Equipment
Animal Care Products
Liquid Nitrogen
Insecticides
Biostat Tank Sales and Rentals

I have attached a listing which may help you identify specific items we are interested in.

Would you also include a copy of your most recent listing of local and county sales tax rates?

Thank you for your assistance in this matter.

Please note that gross receipts from proceeds from the sale of semen used for artificial insemination of livestock for direct agricultural production are exempt from Retailers' Occupation Tax. 35 ILCS 120/2-5(26) (1996 State Bar Edition).

The Retailers' Occupation Tax also does not apply to farm machinery and equipment that is used or leased for use primarily (over 50% of the time) in production agriculture or for use in State or federal agricultural programs. For your information, we have enclosed a copy of 86 Ill. Adm. Code 130.305, which is the Department's regulation concerning Farm Machinery and Equipment. Please note that purchasers that claim the farm machinery and equipment exemption are required to provide the certification or blanket certification described in subsection (m) of Section 130.305. Please also note that the type of item is not

the only consideration in determining whether or not it will qualify for the exemption. Whether a specific item qualifies for the exemption depends also on how the item will be used by the purchaser.

Machinery means major mechanical machines or major components thereof contributing to the production agriculture process or used primarily in State or federal agricultural programs. Farm machinery would include tractors, combines, balers, irrigation equipment, cattle and poultry feeders, but not improvements to real estate such as fences, barns, roads, grain bins, silos, and confinement buildings. However, certain machines qualify for the exemption if purchased by farmers directly from retailers, even though they are installed as realty improvements. See Section 130.305(i). Such machines include but are not limited to augers, grain dryers (heaters and fans), automated livestock feed bunks (but not ordinary building materials), automatic stock waterers (powered by electricity or water pressure and built into a permanent plumbing system), and water pumps serving production areas, specialty heating or lighting equipment specially required by the production process, i.e., ultraviolet lights, and special heaters for incubation. Equipment means any independent device or apparatus separate from any machinery, but essential to production agriculture.

New or used repair or replacement parts, necessary for the operation of the machine used in production agriculture or in State or federal agricultural programs, qualify for the exemption. See Section 130.305(l). However, consumable supplies such as soap, inks, fuel, grease, oil and other lubricants, anti-freeze, and liquid nitrogen are not repair or replacement parts. Other items such as lab equipment/supplies, packaging materials, clothing, gloves, and office supplies also do not qualify for the exemption.

Some items that are not commonly referred to as machinery or equipment may still qualify for the exemption if they are used in a qualifying manner. Certain animal identification items, such as ear tags and ear tag insert tools, that are used primarily on animals that will subsequently be sold, or whose products will be sold, qualify for the farm machinery and equipment exemption. Please note that inks, dyes, cattle tag cement, aerosol glues, and other glues do not qualify for the exemption because they are considered supplies.

Milk pails and ropes or fasteners that restrain milk cattle may also qualify for the farm machinery & equipment exemption. Buckets used to carry feed and water for production animals can qualify for the exemption. Grooming equipment, such as brushes or scissors, which are used for the care of production animals may also qualify for the exemption. Towels, soaps, and disinfectants for general farm use are considered supplies and do not qualify for the exemption.

For your information, we have also enclosed a copy of 86 Ill. Adm. Code 130.1955, which is the regulation for the farm chemicals exemption. As you can see from the regulation, farm chemicals include any chemical product used in production agriculture, the products of which are to be sold, or in the production or care of animals that are to be sold or the products of which are to be sold.

Please note that sales of "canned" computer software are taxable retail sales in Illinois. See the enclosed copy of 86 Ill. Adm. Code 130.1935. However, if the computer software consists of custom computer programs or custom computer software updates, then the sales of such software may not be taxable retail sales. See Section 130.1935(c). Custom computer programs or software are prepared to the special order of the customer. The selection of pre-written or canned programs assembled by vendors into software packages does not constitute custom software unless real and substantial changes are made to the programs or creation of program interfacing logic. See Section 130.1935(c)(3). If transactions for the licensing of computer software meet all of the criteria provided in Section 130.1935(a)(1), neither the transfer of the software or the subsequent software updates will be subject to Retailers' Occupation Tax.

I hope this information is helpful. We have included a copy of the Department's Illinois Sales Tax Rate Reference Manual pursuant to your request. The Department of Revenue maintains a Web site, which can be accessed at www.revenue.state.il.us. If you have further questions related to the Illinois sales tax laws, please contact the Department's Taxpayer Information Division at (217) 782-3336.

If you are not under audit and you wish to obtain a binding Private Letter Ruling regarding your factual situation, please submit all of the information set out in items 1 through 8 of the enclosed copy of Section 1200.110(b).

Very truly yours,

Terry D. Charlton
Associate Counsel

TDC:msk
Enc.